

11 October 1962

MEMORANDUM FOR: Technical Development Committee

SUBJECT: Contract No. [REDACTED]  
[REDACTED] Recommendations regarding Appropriation of  
Additional Funds for Preparation of Final Report  
and Coverage of Overrun

1. Under the present terms of the contract, Contractor is not obligated to submit a report. On the other hand the Government is not obligated to consider the overrun. Whether Contractor would be required to furnish the report if the Government simply added funds to cover the cost of the report, but not the overrun, and whether in such case the report would have to cover the work done with the overrun money, are legal questions which might have to be decided if the case developed into a dispute.

2. It is submitted that the Government position should be as follows:

a. Assuming that a report is needed and is worth the reasonable indicated cost, Contractor should submit a report before the Government can consider coverage of the overrun, because:

1. As a matter of law, we interpret the contract that way

2. As a practical matter, the Government must have some concrete evidence of what was accomplished before it can pass finally upon the reasonableness of the costs claimed

3. As a matter of policy <sup>P</sup>RD does not consider coverage of overruns reported after-the-fact until all reports, including audit and technical reports, are in and approved by the cognizant offices.

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b. The cost of the report should not include fee because the making of a final report on the work is within the original scope of the Task Order. The overhead rates used in determining the cost of the report should not exceed 110% and 10%, as these are the ceiling rates applicable to all task orders issued prior to 15 June 1962.

c. Assuming that Contractor submits the report at reasonable cost or Government decides it does not need report, then Government should consider coverage of the overrun on basis of all the facts available.

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1. Facts presently available tend to dictate a decision for coverage because (a) [redacted] states that [redacted] then of TPDS, indicated to him by phone that the project was going to be continued. (b) There is no positive evidence in the file to the contrary.

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2. On the other hand [redacted] was never the monitor-of-record on this case and there may be other evidence known to members of TPDS which has not been brought out. Certainly Contractor is not entitled to payment for work beyond 14 June 1961 when he was officially told no extension of Task Order would be made. A check with the auditors should be made on this.

3. Upon the approval of this committee and any necessary reviewing authorities, RD will be glad to attempt to negotiate a settlement of the matter along the lines indicated in this memo.

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